

address it to “Officer In Charge.” Per such directions, Waiver of summons was sent to said Naval Station on March 22, 2008.

6. Plaintiff’s Counsel contacted Naval Legal Services at the Naval Station Newport that stated they had no knowledge of the waiver of summons and instructed counsel’s office to contact Personnel Support Dispatch. After leaving several messages, Counsel has been unsuccessful in contacting anyone at said Dispatch.
7. On March 29, 2008 Plaintiff’s Counsel left a message for Ms. Yancy at the CPD asking when Officer Wise would be returning, and again, received no response.
8. The *Servicemembers Civil Relief Act (Act)*, 50 U.S.C. App. §§501-596 protects Servicemembers called to active duty. The Act states in part:
 - a. “This section applies to any civil action or proceeding in which the defendant does not make an appearance... In an action covered by this section in which the defendant is in military service, the court shall grant a stay of proceedings for a minimum period of 90 days under this subsection upon application of counsel, or on the court’s own motion, if the court determines that: 1) there may be a defense to the action and a defense cannot be presented without the presence of the defendant; or 2) after due diligence, counsel has been unable to contact the defendant or otherwise determine if a meritorious defense exists.” 50 U.S.C. §520 and §520 (d).
9. The *Act* requires Plaintiff to file an affidavit showing necessary facts to support whether or not the defendant is in military service. *Id.* at 521. The affidavit is attached as Exhibit 2 and the letter from the CPD is attached as Exhibit 1.
10. In terms of the Statute of Limitations, it should be pointed out in §526 of the *Act*:
 - a. “The period of a servicemember’s military service may not be included in computing any period limited by law, regulation, or order for the bringing of any action or proceeding in a court, or in any board, bureau, commission, department, or other agency of a State (or political subdivision of a State) or the United States by or against the service member or the servicemember’s heirs, executors, administrators, or assigns.”
11. Helen Gibbons filed an appearance on behalf of the City of Chicago and Ashley Kosztya filed an appearance on behalf Officer S. Reyes.

12. Plaintiff's Counsel spoke with Ashley Kosztya and asked whether she and her office would accept service for Officer L. Wise given the fact she is assigned to represent the second Chicago Police Officer, Defendant S. Reyes. Ms. Kostya explained it was against the policy of her office to accept service.
13. As such, Counsel will be unable to serve Officer Wise by the June 4, 2008.

WHEREFORE, because of the difficulty and lack of cooperation by the Police Department and Navy, Plaintiff requests a motion for extension of time to serve Officer L. Wise or grant a stay of proceedings not less than 90 days, or in the second alternative, appoint counsel for Officer L. Wise.

Respectfully submitted,

/s/ Jon Erickson

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CERTIFICATE OF SERVICE

Franco La Marca, a licensed attorney, state that on June 2, 2008 a copy of the foregoing PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO SERVE DEFENDANT L. WISE was caused to be delivered, electronically, to the following:

Helen Gibbons
City of Chicago Department of Law
30 N. La Salle St.
Suite 1020
Chicago, IL 60602

Ashley Kosztya
City of Chicago Department of Law
30 N. La Salle St.
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/s/ Franco La Marca
Franco La Marca